

**FEDERAL PUBLIC DEFENDER**  
**Western District of Washington**

*Colin Fieman*  
*Federal Public Defender*

*Corey Endo*  
*First Assistant Defender*

April 27, 2022

Andrew Friedman  
Jessica Murphy Manca  
Tania M. Culbertson  
Assistant United States Attorneys  
700 Stewart Street, Suite 5220  
Seattle, WA 98101

Re: *United States v. Paige Thompson*, CR19-159-RSL

Mr. Friedman, Ms. Manca, and Ms. Culbertson:

On March 11, 2022, the government submitted a letter with the Court, as an exhibit to a filing, that purported to be its Rule 404(b) notice. In the letter, which was separately e-mailed to us on March 11, 2022, the government represented that government had in its possession evidence that our client Paige Thompson "...planted crypto-currency-mining software..." on the following companies:

[REDACTED]

(Dkt. No. 210-1.) The government also represented that it would identify additional companies that also had crypto-currency-mining software planted on their servers. (*Id.*) And the government indicated that additional information was forthcoming. (*Id.*)

On April 22, 2022, you e-mailed us with a letter identifying the following companies:

[REDACTED]

The government has not identified any discovery disclosed to defense showing that Ms. Thompson planted crypto-currency-mining software on any of these companies' servers. Rule 404(b) was amended in 2020 in a number of respects. The government must now not only identify the evidence that it intends to

Andrew Friedman  
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April 27, 2022  
Page 2

offer pursuant to the rule, but it must also articulate a non-propensity purpose for which the evidence is offered and the basis for concluding that the evidence is relevant in light of this purpose. Rule 404(b)(3)(A)-(B)

The earlier requirement that the prosecution provide notice of only the “general nature” of the evidence was understood by some courts to permit the government to satisfy the notice obligation without describing the specific act that the evidence would tend to prove, and without explaining the relevance of the evidence for a non-propensity purpose. See, e.g., *United States v. Castro-Ward*, 328 F. Supp. 3d 25, 26-27 (D.P.R. 2018). This amendment makes clear what notice is required. The government’s Rule 404(b) notice fails to meet these requirements.

We are approximately 6 weeks away from trial. We plan to move to exclude evidence related to these companies based on lack of notice. Before we do so, we would like to meet and confer. Please advise on your availability this Thursday and Friday.

Sincerely,

/s/ *Mohammad Ali Hamoudi*  
MOHAMMAD ALI HAMOUDI

/s/ *Christopher Sanders*  
CHRISTOPHER SANDERS

/s/ *Nancy Tenney*  
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/s/ *Brian Klein*  
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/s/ *Melissa Meister*  
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